

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Levy(F)	Team: Team # 1	CCRB Case #: 201312000	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 12/27/2013 12:36 AM	Location of Incident: § 87(2)(b)	Precinct: 46	18 Mo. SOL 6/27/2015	EO SOL 6/27/2015	
Date/Time CV Reported Fri, 12/27/2013 9:41 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 12/27/2013 9:41 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM John Carnevale	06603	950161	046 PCT
3. An officer			
4. POM Jacob Newman	19914	933090	046 PCT
5. SGT Edwin Ching	01578	917418	046 PCT
6. POM Ryan Bracconeri	07459	948690	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Santana	15369	951202	046 PCT
2. POM Derek Lenart	28608	933925	046 PCT
3. LT Seth Lynch	00000	932932	PBBX
4. POF Tatiana Cruz	00400	950253	046 PCT
5. SGT Michael Linahan	05231	944275	046 PCT
6. POM Salvatore Tevere	16614	947537	046 PCT
7. POM Daniel Madden	07841	950796	046 PCT
8. SGT Jorge Carvajal	03493	932427	046 PCT
9. POM Anthony Romero	01884	940669	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jacob Newman	Force: PO Jacob Newman pointed his gun at § 87(2)(b) and § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C. An officer	Force: An officer used physical force against § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
E.POM John Carnevale	Abuse: PO John Carnevale entered and searched § 87(2)(b) in the Bronx.	
F.POM Ryan Bracconeri	Abuse: PO Ryan Bracconeri entered and searched § 87(2)(b) in the Bronx.	
G. An officer	Abuse: An officer threatened to arrest § 87(2)(b)	
H.POM John Carnevale	Abuse: PO John Carnevale detained § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On December 27, 2013, at approximately 12:36 a.m., PO John Carnevale and other officers from the 46th Precinct responded to § 87(2)(b) in the Bronx in regards to a 911 call of two individuals with a firearm. PO Joseph Newman encountered § 87(2)(b) and § 87(2)(b) behind the building and pointed his gun at them (**Allegation A**). § 87(2)(b) and § 87(2)(b) alleged that officers used physical force against them (**Allegation B** and **Allegation C**). § 87(2)(b) who did not cooperate with the investigation, alleged that an officer said, “Stop crying like a little bitch,” and, “Shut the fuck up” (**Allegation D**). § 87(2)(b) and § 87(2)(b) were arrested. Officers went upstairs to § 87(2)(b) § 87(2)(b) PO Carnevale, PO Ryan Bracconeri, and other officers entered and searched the apartment and PO Carnevale recovered a BB gun from a table inside the apartment (**Allegation E** and **Allegation F**). Officers spoke to § 87(2)(b) inside the apartment and he and his mother, § 87(2)(b) § 87(2)(b) alleged that an officer threatened to arrest § 87(2)(b) if she approached § 87(2)(b) (**Allegation G**). PO Carnevale handcuffed § 87(2)(b) and brought him outside (**Allegation H**). § 87(2)(b) and § 87(2)(b) were arrested, but § 87(2)(b) arrest was voided at the stationhouse.

Sgt. Edwin Ching of the 46th Precinct does not have any entries regarding this incident (**Allegation I**). PO Carnevale failed to prepare a Stop and Frisk report regarding § 87(2)(b) (**Allegation I**).

Mediation, Notice of Claim, and Criminal Histories

This complaint was not eligible for mediation due to the arrest of § 87(2)(b) As of February 4, 2015, no Notice of Claim has been filed (encl. 44). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) § 87(2)(b) and § 87(2)(b) (encl. 2G-J).
- PO Carnevale has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. 2A). This is the first complaint against PO Carnevale.
- PO Newman has been a member of the service for 11 years and there is one substantiated CCRB allegations against him (encl. 2B-C). In case number 200814866, a vehicle stop was substantiated and charges were recommended. The statute of limitations precluded disciplinary action.
- Sgt. Ching has been a member of the service for 18 years and there are no substantiated CCRB allegations against him (encl. 2D-E).

Potential Issues

§ 87(2)(b) did not cooperate with the investigation (encl. 9). Because he was not available to sign an unsealing order, the investigation was unable to obtain the complaint report and § 87(2)(b) arrest report. Attempts were made to obtain security footage from § 87(2)(b) (§ 87(2)(b)) by contacting them by telephone and mailed a subpoena. However, after initial contact was made with § 87(2)(b), the officer manager, she stopped responding to contact attempts.

NYPD Documents

The event notes that Midnight Conditions, sectors I, K, and M, Anti-Crime, and the robbery auto were present at the scene at various points during the incident (encl. 38A-B, 39A-N).

The 46th Precinct Tour 1 Roll Call lists the Midnight Conditions team as PO Tatiana Cruz, PO Salvatore Tevere, PO Daniel Madden, and PO Edgardo Ortiz (encl. 38A-B, 43EE-TT). However, they were not present for the incident (encl. 23A-B; 29A-B; 31A-B). The Tour 3 Conditions team, Sgt. Jorge Carvajal,

PO Anthony Romero, PO Primitivo Montanez, and PO Luis Reyes, was working at the time of the incident, but was not present (encl. 35A-B, 37A-B, 38A-B, 43A-DD).

Findings and Recommendations

Explanation of Subject Officer Identification

PO Newman admitted to pointing his gun at § 87(2)(b) and § 87(2)(b). Therefore, allegation A is pleaded against him.

Based on the Communications records and officer testimony, numerous officers responded to the scene both over the radio, and because the call was for someone with a gun, numerous officers, likely from a variety of plainclothes and uniformed commands, responded to the scene without going over the radio. Given that the investigation was unable to definitively identify the entire pool of officers who responded to this incident, the investigation was unable to determine which officers—who were both in uniform and plainclothes—were at the back of the location and who apprehended each individual. The officers were described both uniform and plainclothes males (encl. 6A-J; 7). Though PO Newman admitted to assisting with handcuffing either § 87(2)(b) or § 87(2)(b) he did not admit to taking anyone to the ground, he was not the subject of the alleged force, and he did not know which officers assisted him.

The investigation was also unable to determine the identity of all of the officers in the apartment. The descriptions were vague and even unclear as to whether the officers were in uniform or plainclothes and because it was likely that officers from numerous plainclothes and uniformed officers were involved in this incident, the investigation could not narrow down the pool of which officers or which commands went to the apartment. PO Carnevale and PO Bracconeri, who admitted to being in the apartment, could not identify any other officers present and did not admit to threatening to arrest § 87(2)(b) (encl. 13A-C; 27A-C). Therefore, Allegation G is being pleaded against an officer.

PO Carnevale admitted to being the officer who initially spoke to § 87(2)(b) at the entrance to the apartment and § 87(2)(b) stated that it was the officer who questioned him who brought him downstairs in handcuffs (encl. 8A-H). Therefore, allegation H is being pleaded against PO Carnevale.

Allegation A – Force: PO Jacob Newman pointed his gun at Stephon § 87(2)(b) and § 87(2)(b)

It is undisputed that PO Newman pointed his gun at § 87(2)(b) and § 87(2)(b).

PO Newman stated that he was at the rear of § 87(2)(b) in the Bronx looking for two individuals who were observed in possession of what appeared to be a firearm, and had been observed entering the location when § 87(2)(b) and § 87(2)(b) exited the building through the rear door (encl. 33A-C). This is supported by the communications records, which show the robbery auto at the rear of the building in regards to two individuals with a gun (encl. 38A-B, 39A-N).

An officer may point his gun at an individual if he reasonably fears for his safety. Police Department v. Gliner, OATH Index No. 955/00 (encl. 1M-FF).

§ 87(2)(b), § 87(2)(g)

Allegation C – Force: An officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that when after he was held at gunpoint and told to freeze, an officer came over to him and pushed him, causing § 87(2)(b) to trip on his shoelaces and fall to the ground, at which point the officer put

him in handcuffs.

Patrol Guide Procedure 203-11 states that officers need to use minimal physical force to apprehend someone (encl. 1s-t).

§ 87(2)(b), § 87(2)(g)

Allegation B – Force: Officers used physical force against § 87(2)(b)

Allegation D – Discourtesy: An officer spoke discourteously to § 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) who was uncooperative with the investigation, allege that officers picked up § 87(2)(b) threw him to the ground, and then stepped on his face, causing him to bleed. § 87(2)(b) also stated in his phone statement that an officer told him to “Stop crying like a little bitch,” and, “Shut the fuck up” (encl. 7). However, § 87(2)(b) did not hear these statements (encl. 6A-J).

§ 87(2)(b), § 87(2)(g)

Allegation E – Abuse of Authority: PO John Carnevale entered and searched § 87(2)(b) in the Bronx.

Allegation F – Abuse of Authority: PO Ryan Bracconeri entered and searched § 87(2)(b) in the Bronx.

§ 87(2)(b) stated that when § 87(2)(b) told her there were officers at their apartment door, she spoke to the officers through the closed door, and eventually slightly opened the door, at which point an officer put his foot in the door. § 87(2)(b) was asked who was in the apartment and what he was wearing. When she told the officers that her son was wearing all black, the officers asked for him to come to the door. When § 87(2)(b) came into view, all seven officers pushed their way into the apartment without asking if they could enter. § 87(2)(b) could not hear the questions that officers were asking her son, but she did see officers go into her bathroom, kitchen, and both bedrooms. Officers also went into her dining room and saw a non-working BB gun sitting on a table, and took it (encl. 5a-h). § 87(2)(b) corroborated that § 87(2)(b) did not have the door completely open when an officer put his foot in the door. § 87(2)(b) stated that when his mother told the officers that he was in the apartment, all five officers who were present pushed their way into the apartment without asking if they could enter. § 87(2)(b) stated that the officers looked in the dining room, bedrooms, and eventually removed the non-working BB gun from the living room (encl. 8a-h).

PO John Carnevale stated that he and three-to-four officers went to § 87(2)(b) because § 87(2)(b) and § 87(2)(b) told a supervisor on the scene, identified as Sgt. Edwin Ching, that they had just left that apartment. PO Carnevale stated that when § 87(2)(b) opened the door, he told her that they needed to speak to her son to see if the two males they had apprehended had been trespassing in the building, at which point § 87(2)(b) let the officers in. PO Carnevale spoke to § 87(2)(b) and saw a BB gun on a table to the left of the door, at which point he took the gun (encl. 13a-c). PO Ryan Bracconeri corroborated why they went to § 87(2)(b) and that § 87(2)(b) told the officers that they could enter the apartment. PO Bracconeri stated that he shined his flashlight into the living room and saw the BB gun, which he thought

was a firearm, on the living room table, and another officer recovered it (encl. 17a-b). Neither officer stated they searched throughout the apartment.

PO Carnevale and PO Bracconeri both stated that § 87(2)(b) gave them permission to enter the apartment and that they were the ones who found and recovered the gun. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation G – Abuse of Authority: An officer threatened to arrest § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both stated that when § 87(2)(b) was being questioned inside the apartment and § 87(2)(b) tried to intervene, an unidentified officer threatened to arrest her if she continued to try to intervene. As discussed in the Explanation of Subject Officer Identification section, the investigation was unable to identify the officer who allegedly made this threat. § 87(2)(g)

§ 87(2)(b)

Allegation H – Abuse of Authority: PO John Carnevale detained § 87(2)(b)

It is not in dispute that at some point prior to the police apprehending § 87(2)(b) and § 87(2)(b) for having what was believed to be a gun, § 87(2)(b) was with them. It is also not in dispute that all three males were dressed in black when the 911 call was placed that there were two males dressed in black with a gun. § 87(2)(b) stated that the officer who questioned him, PO Carnevale, is the one who put him in handcuffs and took him outside the apartment and put him in a show-up with § 87(2)(b) and § 87(2)(b) and then released. § 87(2)(b) and § 87(2)(b) corroborated that § 87(2)(b) was brought downstairs in handcuffs. § 87(2)(b) the 911 caller, was unavailable with contact attempts (encl. 9).

PO Carnevale admitted that he questioned § 87(2)(b) in the apartment about § 87(2)(b) and § 87(2)(b) and where they had been. However, he did not recall removing § 87(2)(b) from the apartment. No other officers recalled § 87(2)(b) being removed from the apartment and brought downstairs. Sgt. Ching stated that it was possible a third male was brought outside, but he could not recall (encl. 19A-B).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g), § 87(4-b) [Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted].

Team: 1

Investigator:	_____	<u>Jacqueline Levy</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date